

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

| | | |
|-----------------------|---|-------------------------------|
| ORACLE AMERICA, INC., |) | Case No.: 11-CV-01043-LHK |
| |) | |
| Plaintiff, |) | ORDER GRANTING IN PART MOTION |
| v. |) | TO EXTEND TIME TO RESPOND TO |
| |) | COMPLAINT |
| INNOVATIVE TECHNOLOGY |) | |
| DISTRIBUTORS, LLC, |) | (re: docket #27) |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff filed this action on March 7, 2011. *See* Dkt. #1. An initial Case Management Conference is scheduled for June 1, 2011. On March 11, 2011, Defendant notified the Court of an action pending in New Jersey filed on March 2, 2011, which Defendant asserts is the “first filed” action. On March 21, Plaintiff (Oracle) filed a motion to dismiss, or transfer, in the New Jersey action. Defendant’s response is due on April 4, 2007. On March 23, 2011, Defendant filed a motion in this Court, pursuant to Civil Local Rule 6-3, seeking an extension of time to respond to the Complaint from March 30, 2011 to April 14, 2011. *See* Dkt. #27. Defendant argues that it needs an additional two weeks to “coordinate its responses to the New Jersey and California actions.” Defendant submits that Plaintiff “refused even this minor courtesy.”

On March 24, 2011, Plaintiff filed an opposition arguing that the New Jersey action is not the “first filed” action, but was instead a “race to the courthouse” to avoid an alleged California

1 forum selection clause between the parties. *See* Dkt. #30. Thus, Plaintiff contends that Defendant
2 “caused the venue dispute” in the first place and is just seeking unnecessary delay.

3 The Court is troubled by the parties’ inability to compromise this early in the litigation. As
4 this litigation goes forward, the Court expects zealous advocacy, but also reasonable compromise
5 from both sides when possible.

6 As no motions have been filed, no prior extensions have been requested, and the Case
7 Management Conference is not set to take place until June 1, 2011, the Court discerns no prejudice
8 in allowing Defendant a brief extension of time to respond to the Complaint. The Court will grant
9 Defendant a one week extension of time to respond to Plaintiff’s Complaint. Accordingly,
10 Defendant’s response in this action is **due no later than April 6, 2011.**

11 **IT IS SO ORDERED.**

12
13 Dated: March 25, 2011



LUCY H. KOH
United States District Judge